



TO: Elizabeth A. Pauli, City Manager
FROM: Peter Huffman, Director, Planning and Development Services
Kurtis D. Kingsolver, P.E., Public Works Director/City Engineer
Jana Magoon, Planning Manager, Planning and Development Services
COPY: City Council and City Clerk
SUBJECT: Ordinance Amending Regulations on Right-of-Way Occupancies – April 3, 2018
DATE: March 16, 2018

SUMMARY:

An ordinance amending Chapter 9.08 of the Tacoma Municipal Code, relating to Street Occupancies, to modify the outdated permitting, insurance and fee requirements for occupancy permits.

COUNCIL SPONSORS:

Council Member McCarthy

STRATEGIC POLICY PRIORITY:

- Strengthen and support a safe city with healthy residents.
- Encourage and promote an efficient and effective government, which is fiscally sustainable and guided by engaged residents.

BACKGROUND:

Chapter 9.08 of the Tacoma Municipal Code has not had a comprehensive update since 1977 and contains outdated information. Approximately three years ago, the responsibility for processing Right-of-Way Occupancy Permits was transferred from the Public Works Department to Planning and Development Services. At the same time, Public Works and Planning and Development Services began exploring options to reduce barriers to development in the right-of-way, while still protecting the City’s interest in the right-of-way. Last summer the Master Builders of Pierce County submitted a list of requested “improvements” that include changes to way Right-of-Way Occupancy Permits are processed. Over the years other applicants have suggested ways that would streamline the process. Proposed code changes would be effectively made in phases.

ISSUE:

The Right-of-Way Occupancy process is labor intensive and expensive to administer. Particularly with applications for residential occupancies, the current insurance requirements result in staff spending extra time shepherding the permit through the process. In the case of both residential and commercial occupancies, staff often begin to review development for compliance with associated building permit while still processing the right-of-way occupancy permit. Last, the City charges a substantial annual commercial use fee for occupancies that are required by City code, such as bike racks and benches.

Planning and Development Services has presented options and recommendations to the Master Builders of Pierce County Legislative Committee multiple times, to the Infrastructure, Planning and Sustainability Committed on February 22, 2017, and the City Council Study Session on March 28, 2017.

There is support for modifying the insurance requirement related to residential development. Further, there is general support to track right-of-way occupancies through the associated development permit, rather than continuing with parallel permit processes. There is general support to remove some or all of the Commercial Annual Use Fee for commercial-related right-of-way occupancies, provided the budget implications can be managed.

If approved, the proposed Phase I regulations would amend the City code as follows:

For “minor” occupancies adjacent to single family or duplex properties:

- Minimize process related to low risk occupancies, such as fences, retaining walls, and at-grade steps located behind a sidewalk, by processing an Acknowledgement of Minor Encroachment rather than a Right-of-Way Occupancy Permit.

For “other” occupancies adjacent to single family or duplex properties:

- Consolidate the review of the Right-of-Way Occupancy Permit with the review of the associated building permit.
- Remove the requirement to name the City of Tacoma as an additional insured.
- Require that homeowners requesting a Right-of-Way Occupancy Permit provide proof of homeowner’s liability insurance of a limit not less than \$1,000,000.00.

For occupancies adjacent to commercial properties:

- To facilitate development that provides a public benefit, and often required by code, remove the requirement that certain commercial right-of-way occupancies (such as irrigation, bicycle racks and benches) pay Commercial Annual Use Fees.

For all Right-of-Way Occupancy Permits, residential and commercial:

- Require all right-of-way occupancies to acknowledge that, if the City needs to access the right-of-way, improvements will be removed at the permittee’s expense.
- Update fees in a move towards full cost recovery:
 - Right of Way Occupancy Permit Fee – Change from \$320.00 to \$640.00 per permit in 2018. This new fee reflects approximately 65 percent cost recovery of the City’s current permit process. Once efficiencies are realized, a full analysis of cost recovery will be evaluated during formulation of the 2019-2020 budget.
 - Acknowledgement of Minor Encroachment - \$320.00. This fee reflects the streamlined process for minor encroachments. Because this is a new process, full cost recovery has not been evaluated. A full cost analysis will be evaluated during the formulation of the 2019-2020 budget.
 - Annual Renewal Fee – Change from \$90.00 to \$135.00. This new fee reflects about 85 percent cost recovery for one inspection. Full cost recovery will be evaluated during the formulation of the 2019-2020 budget.

ALTERNATIVES:

Multiple alternatives have been discussed. These include removing Commercial Use Fees entirely or in-part, removing the requirement to name the City as an additional insurer, removing the requirement for a separate right-of-way permit, removing the annual renewal fee, and/or increasing the permit fee to get closer to full cost recovery.

The current proposal is to focus on removal of barriers to single family and duplex development, limit the fiscal impact related to reduction of Commercial Annual Use fees, and to implement partial cost recovery through permit fees.

RECOMMENDATION:

An ordinance amending Chapter 9.08 of the Tacoma Municipal Code, relating to Street Occupancies, to modify the outdated permitting, insurance and fee requirements for occupancy permits.

FISCAL IMPACT:

EXPENDITURES:

FUND NUMBER & FUND NAME *	COST OBJECT (CC/WBS/ORDER)	COST ELEMENT	TOTAL AMOUNT
N/A			
TOTAL			

* General Fund: Include Department

REVENUES:

FUNDING SOURCE	COST OBJECT (CC/WBS/ORDER)	COST ELEMENT	TOTAL AMOUNT
Commercial Use Fees	087500	4322000	(\$75,000)
TOTAL			(\$75,000)

FISCAL IMPACT TO CURRENT BIENNIAL BUDGET: As proposed, the impact for 2018 would be approximately \$75,000. This is based on the proposal to remove the requirement for an Annual Commercial Use Fee from those developments required by the City of Tacoma. All impacts are to the General Fund.

ARE THE EXPENDITURES AND REVENUES PLANNED AND BUDGETED? N/A

IF EXPENSE IS NOT BUDGETED, PLEASE EXPLAIN HOW THEY ARE TO BE COVERED.

N/A